

1. Requested Motion:

Meeting Date: December 2, 2013

Approve a policy related to structures and landscaping within the public right-of-way and for providing restoration of driveway aprons resulting from construction activities by the Town.

Why the action is necessary:

Town Council decides all policy matters.

What the action accomplishes:

Provides direction to Town staff.

2. Agenda:

☐ Consent
☒ Administrative
☐ Public Hearing

3. Requirement/Purpose:

☐ Resolution
☐ Ordinance
☒ Other -

4. Submitter of Information:

☐ Council
☒ Town Staff – Public Works
☐ Town Attorney

5. Background:

At a workshop held on June 12, 2007, the then seated, Town Council discussed various matters relating to the Town's public right-of-way, the minutes are attached for reference. A portion of that meeting was used to address restoration activities resulting from Town construction projects. Council provided direction to staff that the approach to each project should be determined on a community level and provide property owners with 30 – 60 advance notice of the work to allow sufficient time for the property owner to remove any landscaping or driveway pavers in the right-of-way; the removal and replacement of these items would be the responsibility of the property owner.

Now that the reFRESH Waterlines Phase I project is approaching construction staff is looking for direction as to the method Town Council desires to use for this Phase I work. Staff is looking for a determination from Council related to who will be responsible for removing and or replacing items such as fences, statues, landscaping, etc. located within the public right-of-way as well as handling driveways with respect to the removal and replacement of decorative pavers, replacement of stamped concrete, restoration of stone, shell, asphalt and concrete driveways, and driveway width.

Attached is also a memorandum providing additional information related to this.

6. Alternative Action:

Take no action to provide direction to staff for the upcoming project

7. Management Recommendations:

Provide the needed direction.

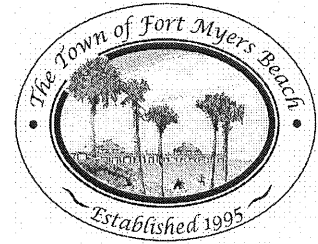
8. Recommended Approval:

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Park & Recreation Director	Town Clerk
<i>Terry Stalder (m)</i>			<i>C Ruiz</i>			

9. Council Action:

☐ Approved ☐ Denied ☐ Deferred ☐ Other

MEMORANDUM



DATE: November 21, 2013

TO: Terry Stewart, Town Manager

FROM: Cathie Lewis, Public Works Director

SUBJECT: Public Right-of-Way Restoration – Potable Water Rehabilitation Project

During final design of the North Estero Project staff brought forward to the then seated Town Council a number of items associated with encroachment into the public right-of-way. I have attached the minutes from the June 12, 2007 Town Council workshop whereby this matter among others were discussed. The discussion regarding this is within the first paragraph of the second page.

The minutes reflect that Town Council wanted to provide consideration regarding this on a project basis, providing advanced notice to property owners giving them adequate time to remove anything within the right-of-way, at the owners expense, for those materials they wanted saved. This included the removal and replacement driveway pavers.

Shortly after this, LPA was requested to work on stormwater related matters which entailed determining the minimum and maximum widths for residential driveways.

For the North Estero project, property owners were required to remove anything within the public right-of-way that they wanted to keep and relocate it, including driveway pavers. All residential driveway accesses were to be restored in a consistent manner, using a concrete apron up to the edge of the right-of-way. Residential widths were set at a minimum of 9', maximum of 11'. Where the driveway access intersects with the roadway, a maximum width of 18" was set.

Now that the Town is moving forward with the potable water rehabilitation project, I believe Town Council should discuss this matter as it relates to these project areas. As we know the Town's side street paved lane widths are narrow by design and range from a right-of-way width of 15' to 50'. With the water project, the installation of the piping and appurtenances will take place on one side or the other of the right-of-way, for the most part staying out of the paved area.

There are varying materials used for driveways throughout the Town consisting of stone, shell, asphalt, concrete, decorative stamped concrete, and decorative pavers. I believe it is difficult for the Town to assume responsibility for removing, replacing and warranting anything of a decorative nature. Replacing decorative materials will also have the potential of increasing the project costs due to additional materials and specialized labor needed for this restoration. With that being said, I am not aware of any reason why the Town could not do so if it so chose.

I look forward to discussing this with Town Council in the near future. Please let me know if you have any questions or require additional information.

MINUTES

Town Council Workshop
Town Hall –Council Chambers
2523 Estero Boulevard
Fort Myers Beach, FL 33931

June 12, 2007

9:00 AM

Present at this workshop was Mayor Dennis Boback, Vice Mayor Larry Kiker, Councilmember Herb Acken, Councilmember Charles Meador, Councilmember Bill Shenko, Town Attorney Anne Dalton, Town Manager Gary Parker, Public Works Director Jack Green, and Public Works Senior Projects Manager, Cathie Lewis.

Town Manger Gary Parker informed the Council that the purpose of this workshop was to discuss issues related to the use of the Town's Right of Way: Parking, Dumpster, Driveways, Swales.

Public Works Director Jack Green asked Council to provide direction for staff with regard to parking in the ROW, in order to maintain consistent handling of these issues. The discussion contained references to particular cases, such as the use of the right of way by customers of the Lighthouse Resort, S.O.B. on 3rd Street and the Royal Beach Club, to general use by various businesses throughout the island. Concerns were raised as to how any lease agreement would be managed, that there are many variables that would need consideration, and what is legally owned by the Town and what is merely an easement for Town's use. As it relates to the Lighthouse Resort and a lease agreement, Council was concerned about unsafe parking on the Town's egress from the island. Jack Green stated that the sense he received from the Council is that the ROWs are public domain, for community based purposes and not to be leased. With regard to the area on fifth street, Public Works will install no parking signs for the present, and have an engineer come up with a safe design for metered parking. Enforcement of the private use of the rights of way will complaint-driven.

Public Works sought direction from Council as to how to approach the rights of ways on the side streets. The Town will be reclaiming many of the swales for storm water management, and would like Council direction as to who would bear the cost of landscaping and driveway pavers for removal and replacement. Council would like the Town to approach each project on a community level, give the property owners 30-60 days' advanced notice of the work to be done, to allow the property owner to remove any landscaping or any driveway pavers in the ROW; the removal and replacement would be the responsibility of the property owner. Where pipes currently exist under driveways, should the pipe be damaged, the cost will be absorbed into the project. Public Works stated that swales are preferable for storm water management as they have a greater capacity than pipes and they filter the water. Council would not like to mandate swales where pipes may already exist, or where the property owner has a preference for piping.

There was discussion regarding awnings and overhangs onto the Right of Way and being permanently fixed to structures, and the Council was not in favor of this activity, and discussed liability. Proposed FEMA maps were discussed and the effect the V-zone will have on pedestrian friendly community. The consensus of the Council is that there are concerns over structural supports within the Town's Right of Way; and the Community Development Director and the Town Attorney can develop an easement agreement for Snug Harbor as a starting point. Other cases will be addressed on a case-by-case basis.

Regarding newspaper boxes, signs etc. in the right of way, Public Works Director Jack Green said that from previous discussion, he inferred that this activity will continue to be prohibited. He expressed concern about construction staging and fencing that closes off the ROW. Council would like staff to determine the appropriateness based on the project. Staff would like some sort of agreement or policy, whether the use of the ROW would provide some compensation to the Town. The builders would already be paying impact fees, application/permitting fees, and address these on a case-by-case basis and work with the builder.

Community Development Director Jerry Murphy raised the topic of Traffic Impact Analysis as identified in the Comp Plan. Discussion lent itself to not having any criteria for such, and not being in favor of hiring a consultant.

Staff asked for discussion among Council on how to proceed in situations whereby a property owner would offer additional ROW in exchange for frontage to allow for enhanced development. Council would not want Community Development to turn down any offers, to consider on a case by case and keep our alternatives open.

Budget workshops were set for July 19 and 26, 2007 at 6:30 PM.

Workshop adjourned; time not noted.

Adopted 8-6-07 With/ Without Changes. Motion Meador/Shenko
(Date)

Vote: 4-1, Kiker dissent

Michelle Mayher
Michelle Mayher
Town Clerk

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